

REMARKS

Buijsman et al., WO 02/071547, is not prior art under 35 U.S.C. 102(e) with respect to the present application.

Claims 1-8, 10-12 stand rejected under 35 U.S.C. 102(e) as being anticipated by Buijsman et al., WO 02/071547. Applicants respectfully submit that Buijsman et al., WO 02/071547, is not prior art under 35 U.S.C. 102(e) with respect to the present application.

As set forth by the Examiner at page 2 of the Office Action, the appropriate 35 U.S.C. 102(e) is as follows:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, **except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States** and was published under Article 21(2) of such treaty in the English language. (Emphasis added.)

Applicants note that Buijsman et al., WO 02/071547 did **not** designate the United States according to the face sheet of Buijsman et al., WO 02/071547 as indicated in sections (81) and (84).

As set forth in MPEP § 706.02(f)(1):

(2) If the international application was filed on or after November 29, 2000, but did **not** designate the United States or was **not** published in English under PCT Article 21(2), do **not** treat the international filing date as a U.S. filing date >for prior art purposes<. In this situation, do **not** apply the reference as of its international filing date, its date of completion of the 35 U.S.C. 371(c)(1), (2)

and (4) requirements, or any earlier filing date to which such an international application claims benefit or priority. The reference may be applied under 35 U.S.C. 102(a) or (b) as of its publication date, or 35 U.S.C. 102(e) as of any later U.S. filing date of an application that properly claimed the benefit of the international application (if applicable). (Emphasis in original.)

Accordingly, the earliest effective date of Buijsman et al., WO 02/071547, is its publication date of **September 12, 2002**. Applicants note that the present application is a divisional of U.S. Patent Application Serial No.: 09/855,244, filed on **May 14, 2001**, prior to the **September 12, 2002** publication date of Buijsman et al., WO 02/071547. Applicants suggest that the Examiner review the flowchart, chart II, at page 700-39 (Rev. 2, May 2004) of MPEP § 706.02(f)(1) to confirm that there is no § 102(e) date for Buijsman et al., WO 02/071547.

Accordingly, Buijsman et al., WO 02/071547, is not prior art under 35 U.S.C. 102(e) with respect to the present application.

For the above reasons, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 102(e) rejection of Claims 1-8, 10-12 as being anticipated by Buijsman et al., WO 02/071547, and allowance of Claims 1-8, 10-12.

Allowable Subject matter.

Claim 9, which depends from Claim 1, is allowable for at least the same reasons as Claim 1. Claims 24-29, which depend from Claim 10, are allowable for at least the same reasons as Claim 10.

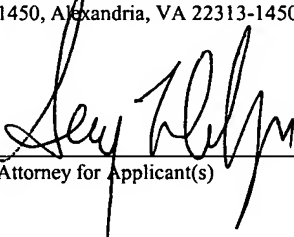
For the above reason, Applicant respectfully requests reconsideration and withdrawal of the objection to Claims 9, 24-29.

Conclusion

Claims 1-12, 24-29 are pending in the application. For the foregoing reasons, Applicants respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

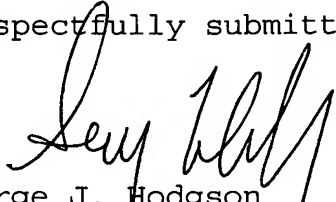
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Attorney for Applicant(s)

March 9, 2005  
Date of Signature

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